

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-02-DL-291
)	
MSA Development Group, Inc.)	NAL/Acct. No.200232500007
Owner of Antenna Supporting Structure 1234488)	
located near Asher, Oklahoma)	FRN 0007-2320-28
Pleasanton, California)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: July 23, 2002

By the Enforcement Bureau, Dallas Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find MSA Development Group, Inc. (“MSA Development”), owner of antenna structure 1234488 located near Asher, Oklahoma, apparently liable for a forfeiture in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Commission's Rules (“Rules”).¹ Specifically, we find MSA Development apparently liable for failing to register its antenna structure near Asher, Oklahoma.

II. BACKGROUND

2. On April 29, 2002, the Federal Aviation Administration (“FAA”) received a report of a light outage on MSA Development’s antenna structure located near Asher, Oklahoma. The report was made by Pioneer Telephone who was contracted by MSA Development to monitor the condition of the structure’s lighting. Pioneer Telephone told the FAA that the antenna structure registration (“ASR”) number for this structure was unknown.

3. On June 10, 2002, an agent from the Commission’s Dallas Field Office reviewed the FAA NOTAM for MSA Development’s antenna structure. The NOTAM had been extended for an additional fifteen days awaiting repair of the lighting. The agent checked the Commission’s ASR database and found no record of an antenna structure registered at or near the location of MSA Development’s structure. The agent contacted Pioneer Telephone, the company that had reported the light outage to the FAA, and determined that MSA Development was the owner and licensed user of the structure. A check of the Commission’s license data confirmed that MSA Development is licensed to operate a radio transmitter at this site under call sign KNKR212.

4. On June 11, 2002, the agent interviewed by telephone a Mr. Chaudhuri, the owner of MSA Development. Mr. Chaudhuri stated that he would get the tower registered.

¹ 47 C.F.R. § 17.4(a).

5. On June 12, 2002, the Commission ASR database showed that MSA Development had registered the tower with the Commission that day, receiving antenna structure registration number 1234488.

III. DISCUSSION

6. Section 17.4(a) of the Rules requires the owner of an antenna structure that required notice to the FAA to register the antenna structure with the Commission. MSA Development's antenna structure required FAA notification because it exceeded 200 feet in height.² From at least April 29 to June 11, 2002, MSA Development owned an antenna structure that required notice to the FAA, and thus required Commission registration, yet MSA Development failed to register the structure.

7. Based on the evidence before us, we find MSA Development willfully³ and repeatedly⁴ violated Section 17.4(a) of the Rules by failing to register its antenna supporting structure.

8. Pursuant to Section 1.80(b)(4) of the Rules,⁵ the base forfeiture amount for failure to file required forms or information (i.e. failure to file an application for antenna structure registration) is \$3,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ Considering the entire record and applying the factors listed above, this case warrants a \$3,000 forfeiture.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁷ and Sections 0.111, 0.311 and 1.80 of the Rules,⁸ MSA Development Group, Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Rules by failing to register its antenna supporting structure.

² See 47 C.F.R. § 17.7(a).

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

⁴ The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

⁵ 47 C.F.R. § 1.80(b)(4).

⁶ 47 U.S.C. § 503(b)(2)(D).

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80.

10. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, MSA Development Group, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the *NAL*/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

12. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE *NAL*/Acct. No. referenced above.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to MSA Development Group, Inc., 5500 Bruce Dr., Suite 1, Pleasanton, California 94588.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
Dallas Office, Enforcement Bureau

⁹ See 47 C.F.R. § 1.1914.